

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No.71444

Michael A. Nibali

2317 Old Frederick Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on February 23, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-7-115, 310, 312, Zoning Commissioner's Policy Manual (ZCPM); Baltimore County Zoning Regulations (BCZR) section 101, 102.1, 1B01.1D, 428, 415A, 400, failure to remove all trash and debris, failure to remove accessory structure, failure to tag all trailers and automobile, failure to remove home occupation from residential property known as 2317 Old Frederick Road, 21228.

On January 26, 2010, pursuant to Baltimore County Code §3-6-205, Inspector Chip Raynor issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$3,000.00 (three thousand dollars).

The following persons appeared for the Hearing and testified: Michael Nibali, Respondent and, Chip Raynor, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on November 30, 2009 for license or remove all untagged/inoperative motor vehicles; license/remove untagged recreation vehicle; improperly parked recreation vehicle; illegal accessory structure placement; remove open dump/junkyard; remove trash and debris; store garbage in cans with tight lids; tag all trailers; all canopies must have permits. This Citation was issued on January 26, 2010.

B. Inspector Chip Raynor testified that his inspection found untagged vehicles, open dump conditions, untagged recreational vehicles, a contractor's equipment storage yard and improperly placed accessory buildings. Photographs in the file show a large residential yard that is full of vehicles, trailers, scaffolding, ladders, temporary canopy tents, tables, shelving, pipes, piles of household items and other junk, and structural beams. Photographs also show a number of large piles covered with tarpaulins. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310.

C. Recreational vehicles and trailers can be stored outside in certain locations on a residential lot, but must have a current license. BCZR Section 415A.1. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). The outside storage of unlicensed motor vehicles is also prohibited, except for one vehicle per dwelling unit for a period not exceeding 15 days in any calendar year. Section 428.1(B). Respondent must put valid tags on all vehicles and make them operable, or remove them from the property.

D. Respondent Michael Nibali testified that he used to own a huge building where he stored much of this material and that when he downsized he had to bring the items home. He testified that he is in the process of building an accessory structure to house many of these items, and that he designed a structure to be made out of scaffolding and rubber roofing material. He started to build the structure and then discovered that it requires a County permit. He tried to obtain the permit and discovered that his design does not meet County building code requirements, and has changed the design twice in an effort to meet the requirements. He further testified that he has had major health problems including

cancer and arthritis in his knee, which has slowed down his progress. He further testified that he has advertised and sold much of the equipment and is moving items out of the front yard.

E. Respondent Nibali further testified that he has modified the design of his storage structure to satisfy the County's requirements and that he will have it built within six months. He agreed that he can have the front yard cleaned up within three weeks of this Hearing, to partially correct the code violations. Because compliance is the goal of code enforcement, the civil penalty will be substantially reduced if Respondent corrects the violations within the timeline provided below. Compliance with the timeline will result in a total civil penalty of \$100.00. However, if Respondent does not correct the violations, the larger penalties will be imposed and the County will be authorized to remove the junk, trash, debris, and untagged vehicles, at Respondent's expense.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$3,000.00 (three thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED BY \$1,000.00 (one thousand dollars) if Respondent corrects all violations in the front yard, by removing all items from the area that runs from the road to a line parallel to the front foundation wall of the house, by March 31, 2010. If the front yard is not cleaned up by that date, the \$1,000.00 civil penalty portion shall be imposed, AND the County is authorized to enter the property after March 31, 2010 for the purpose of removing all junk, trash, debris, and untagged vehicles from the front yard, at Respondent's expense.

IT IS FURTHER ORDERED that the civil penalty will be REDUCED by \$1,900.00 (one thousand nine hundred dollars) if all violations are corrected by September 1, 2010, with all impermissible items removed from the entire yard of this residential property.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 23rd day of March 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.

MZF/jaf